IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 173 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

GUJARAT STATE FERTILIZERS CO. LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

MR JP SHAH for Petitioner

MR BB NAIK for MR MANISH R BHATT for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 17/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee the following question has been referred to this court for its opinion under the provisions of sec.256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is not entitled to investment allowance on roads and culverts as applicable to plant and machinery?"

2. We have heard learned advocate Shri J.P. Shah appearing for the assessee and learned advocate Shri BB Naik appearing for the revenue.

3. It has been fairly submitted by the learned advocates that the question referred to this court is no more res integra. It has been decided by this court in the case of the assessee itself, reported in 219 ITR 550, that investment allowance on the cost of construction of roads and culverts cannot be granted as they are not part of plant and machinery. In the circumstances the question is answered against the assessee and in favour of the revenue.

The reference stands disposed of with no order as to costs.

(D.M. Dharmadhikari, C.J.)

(A.R. Dave, J.)

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